

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff.

v.

ERNST WILHELM KOHSE,
Defendant.

Case No. [4:15-cr-00179-JD-1](#)

PRE-TRIAL ORDER

The Court orders:

1. TRIAL DATE

- a. Jury trial is set for November 9, 2015, at 9:00 am, in Courtroom 11, 19th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102.
- b. The Court anticipates 3 to 4 trial days.

2. DISCOVERY

Both sides will comply with the Federal Rules of Criminal Procedure, and the United States will comply with Brady v. Maryland, 373 U.S. 83 (1963) and United States v. Agurs, 427 U.S. 97 (1976). The parties are advised to review and comply with the Court's Criminal Standing Order and the District's Criminal Local Rules.

3. PRETRIAL CONFERENCE

- a. A final pretrial conference is set for October 28, 2015, at 3:00 p.m., in Courtroom 11, 19th Floor. The attorneys who will try the case will attend the conference and be prepared to discuss the matters set forth in Criminal Local Rule 17.1-1.
- b. **Not less than 14 days** before the pretrial conference, counsel will comply with Crim. L. R. 17.1-1(b) including filing pretrial statements.

- 1 c. **Not less than 14 days** before the pretrial conference, motions in limine will be filed
2 and noticed for hearing at the conference. Usually five or fewer motions per side is
3 sufficient. Each motion should address a single topic and all five motions will be
4 contained in a single brief not exceeding 15 pages. Leave of court is required to file
5 more than five motions or to exceed the page limitations. The parties are reminded that
6 motions in limine are intended to address evidentiary issues and are not substitutes for
7 dispositive motions.
- 8 d. **Not less than 14 days** before the pretrial conference, the parties will submit proposed
9 voir dire questions. Any questions on which counsel cannot agree may be submitted
10 separately. The Court will conduct the voir dire using its own background questions
11 and questions proposed by the parties.
- 12 e. **Not less than 7 days** before the pretrial conference, responses to motions in limine,
13 also not to exceed 15 pages, will be filed. No replies are permitted unless requested by
14 the court.
- 15 f. Jury instructions 1.1 through 1.11, 2.1 through 2.2, 2.11, 3.1 through 3.9, and 7.1
16 through 7.6 from the Manual of Model Criminal Jury Instructions for the Ninth Circuit
17 (2010 Edition) will be given absent objection. Counsel will submit a joint set of these
18 instructions along with a joint set of case specific instructions, using the Ninth Circuit
19 Manual as much as possible. Any instructions on which counsel cannot agree may be
20 submitted separately. Each requested instruction will be typed in full on a separate
21 page with citations to the authority upon which it is based and a reference to the party
22 submitting it. A second blind copy of each instruction will also be submitted omitting
23 the citation to authority and the reference to the submitting party.
- 24 g. A proposed form of verdict omitting reference to the submitting party will be filed by
25 each party. **Proposed instructions and verdict forms will be submitted not less**
26 **than 14 days prior to the date of the pretrial conference.**
- 27 h. Jury Selection: The Jury Commissioner will summon 35 to 40 prospective jurors. The
28 Courtroom Deputy will select their names at random and seat them in the courtroom in


1 the order in which their names are called. Voir dire will be conducted of sufficient
2 venire members so that twelve (plus a sufficient number for alternates) will remain
3 after all peremptory challenges and an anticipated number of hardship dismissals and
4 cause challenges have been made.

5 The court will then take cause challenges and discuss hardship claims at side bar. The
6 court will inform counsel which hardship claims and cause challenges will be granted, but will not
7 announce those dismissals until the selection process is completed. Peremptory challenges will be
8 made in accordance with Crim. L. R. 24-1 and 24-2. The court will strike jurors with meritorious
9 hardship claims, those excused for cause, and those challenged peremptorily, and then seat the
10 first twelve people (plus alternates) remaining in numerical order.

- 11 i. **Courtesy copies of all documents will be provided for chambers at the time of**
12 **filing.**

13 **IT IS SO ORDERED.**

14 Dated: September 3, 2015

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19 JAMES DONATO
20 United States District Judge
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